IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7626 OF 2005

Atul Shah .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.Subhash Jha with Ghanashyam Upadhayay for applicant
Mr.S.S.Tatkare, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 24th November 2005.

P.C.

. Heard Mr.Jha, learned Counsel appearing for applicant and Mr.Tatkare, A.P.P.

2. Applicant is apprehending his arrest in connection with C.R.No.92 of 1999 registered at Cuffe Parade police station for offences punishable under section 465, 467, 468, 471, 420 read with 34 I.P.C. on the basis of a complaint

lodged by Helm India Pvt.Ltd. In the application which is filed for anticipatory bail, it is pointed out that on an earlier occasion, applicant applied for anticipatory bail but the same was rejected by the sessions court vide order dated 26th March 1999.

3. It is the case of applicant that on 3rd or 4th November 2005 some police personnel attached to Kandivali police station visited his residence and informed him about a bailable warrant being issued against him.

4. It is the case of applicant himself that he attended court of Metropolitan Magistrate in connection with some other case between same parties wherein he was informed that as far as instant C.R. is concerned in which charge sheet is filed in the court of Metropolitan Magistrate, he has been shown as absconding accused. Applicant has never left his permanent place of

residence and in fact has deep roots in Mumbai. His address is mentioned in the application and he was otherwise available at the said address. Therefore, he was shocked to know that he has been shown as absconding accused.

5. I indicated to Mr.Jha that since the applicant himself states that his anticipatory bail application has been rejected earlier and that the warrant issued is bailable, I am not inclined to entertain this application. Thereupon, Mr.Jha states that the applicant is willing to appear before the Magistrate in pursuance of the said warrant and apply for appropriate reliefs. However, he should be protected till such time he appears before the Magistrate.

6. In my view, the apprehension made out for arrest is not well founded in the sense that the so called visit from the police station is on

3rd/4th November 2005. Presently the applicant has not been taken in custody inasmuch the warrant itself is bailable. Considering the fact that the applicant is ready and willing to appear before the Magistrate, I have no doubt that the Magistrate will permit the applicant to make appropriate submissions including with regard to his enlargement on bail.

7. In these circumstances, it is not necessary to entertain this application. However, Mr.Jha states that the applicant will remain present before the learned Magistrate on or before 2nd December 2005. Learned Magistrate to decide any application made by applicant herein including that of enlargement on bail on its own merits and in accordance with law, uninfluenced by disinclination of this Court to grant anticipatory bail.

(S.C.DHARMADHIKARI, J)